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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 5TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE V. GOPALA GOWDA

WRIT PETITION No.282/1994

BETWEEN:

Lingappa,
S/o.Muddappa,
Age: major,
Occ: Agriculture,
R/o Turkunana,
District and Taluk:
Raichur.

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.. PETITIONER

(By Sri Shivakumar Kalloor, Advocate)

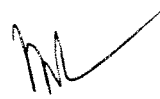
AND:

1. The State of Karnataka,
by its Secretary,
Dept. of Land Reforms,
Vidhana Soudha,
Bangalore.
2. The Land Tribunal,
Raichur,
by its Secretary.
3. The Special Tahsildar,
Raichur.

.. RESPONDENTS

(By Smt.Bharathi Nagesh, A.G.A.
for R-1 & R-2)

This Writ petition is filed under Articles
226 of the Constitution of India praying to



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call for records in R.A.No.1139/86 on the file of Dist. Land Reforms Appellate Authority, Raichur, etc.,

This Writ Petition is coming on for hearing this day, the Court made the following:-

O R D E R

On a short ground this writ petition has to be allowed. The second respondent Land Tribunal has passed the order on the declaration form submitted by the petitioner-landlord holding that there is 34 acres of excess land under the provisions of the Karnataka Land Reforms Act, 1961. Therefore, he has surrendered the same. The Tribunal passed the impugned order against which the petitioner had filed W.P.No.8164/85 urging various legal grounds, one of the grounds urged in the said writ petition was that the Tribunal before passing the impugned order did not follow the procedure as contemplated under Section 67(1) of the Karnataka Land Reforms Act, 1961 and further classification of land and various other relevant aspects required to be taken into consideration for determining the rights of the petitioner in holding that he has possessed 34 acres of excess land. During pendency of the writ petition,

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Land Reforms Act was amended, constituting Land Reforms Appellate Authorities. Therefore, the matter was transferred to the District Land Reforms Appellate Authority, Raichur and registered as R.A.No.1139 of 1986. During pendency of the said appeal, an application under Rule 9(5) of the erstwhile Karnataka Land Reforms Appellate Authority Rules was filed. The said application was came to be allowed. In the meantime, the Land Reforms Appellate Authority was abolished. At the instance of the petitioner, again the said appeal got transferred to this Court as writ petition.

2. As could be seen from the Land Reforms Appellate Authority record and the impugned order passed by the Land Tribunal and the submissions made by the learned counsel appearing for the petitioner Mr. Shivakumar Kalloor that the order of the Tribunal is not preceded by an enquiry to be conducted by the Tahsildar, in pursuance of the declaration submitted by the petitioner in Form No.11 of the Act. Therefore, the order of the Tribunal is bad in law. As this submission is legal and valid and in my view, the impugned order passed by the Land

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Tribunal is contrary to law as law declared by this Court in GOVINDA REDDY vs. STATE OF KARNATAKA & OTHERS (1979(2) KLJ 211) and also PARWATEWWA vs. STATE OF KARNATAKA (ILR 1985 Kar. 1257). This Court in W.P.No.28228/91, has taken the view to the effect that during pendency of the appeal, an applications filed by the parties requesting the authority for adducing additional evidence but the same could not be placed before the said Authorities, in view of the further amendment to the Act, abolishing the Appellate Authority. In such cases this Court can remit back the matters to the Tribunal to have fair and adequate opportunity to such parties to adduce additional evidence. For the reasons stated above, this is a fit case to quash the impugned order. Hence, I pass the following order:

Writ petition is allowed. Rule made absolute. Impugned order is quashed. The matter is remitted back to the Tribunal with a direction to it to give opportunity to the petitioner to establish his claim and further the Tribunal is hereby directed to pass the order in accordance with law within six months from the date of receipt of this order. ..But no costs.



Sd/-
JUDGE

Bg/-
Bg/-220698